



COUNTY OF LOS ANGELES
DEPARTMENT OF PARKS AND RECREATION
"Parks Make Life Better!"

John Wicker, Acting Director

March 22, 2016

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

19 March 22, 2016

LORI GLASGOW
EXECUTIVE OFFICER

**LAKEWOOD GOLF COURSE IMPROVEMENTS AND
CART BARN REPLACEMENT PROJECT
APPROVE AMENDMENT TO OPERATING LEASE WITH
AMERICAN GOLF CORPORATION AND ESTABLISH
CAPITAL PROJECT, APPROVE PROJECT SCOPE, BUDGET,
AND APPROPRIATION ADJUSTMENT
CAPITAL PROJECT NO. 87324
(SUPERVISORIAL DISTRICT 4) (3 VOTES)**

SUBJECT

Approval of the recommended actions will establish the proposed Lakewood Golf Course Improvements and Cart Barn Replacement Project, Capital Project No. 87324; find the proposed project categorically exempt from the California Environmental Quality Act; establish and approve the project, scope, and budget; approve an appropriation adjustment; and approve and instruct the Acting Director of the Department of Parks and Recreation to sign an amendment to the lease agreement with the current Lessee.

IT IS RECOMMENDED THAT THE BOARD:

1. Find the proposed Lakewood Golf Course Improvements and Cart Barn Replacement Project categorically exempt from the California Environmental Quality Act for the reasons stated herein and the reasons reflected in the record of the proposed project.
2. Establish and approve the proposed Lakewood Golf Course Improvements and Cart Barn Replacement Project, Capital Project No. 87324, with a total project budget of \$6,589,000.

3. Approve the attached appropriation adjustment to appropriate \$6,589,000 of net County cost from the Fourth District to the Lakewood Golf Course Improvements and Cart Barn Replacement Project, Capital Project No. 87324 by transferring funding from: Capital Project No. 77131, Lakewood Golf Course New Cart Storage Building (\$2,200,000); Capital Project No. 77132, Lakewood Golf Course Driving Range Improvements (\$2,310,000); Capital Project No. 77133, Lakewood Golf Course New Junior Tee, Practice Tee and Green (\$1,094,000); and Capital Project No. 77134, Los Verdes Golf Course Driving Range Improvements (\$985,000).
4. Approve and instruct the Acting Director of the Department of Parks and Recreation to sign the attached Amendment No. 7 to County Operating Lease Agreement No. 67269 with Lessee, American Golf Corporation, for implementation of the Lakewood Golf Course Improvements and Cart Barn Replacement Project.

PURPOSE / JUSTIFICATION OF RECOMMENDED ACTION

Approval of the recommended actions would find the proposed Lakewood Golf Course Improvements and Cart Barn Replacement Project (Project), located at 3101 East Carson Street in Lakewood, categorically exempt from the California Environmental Quality Act (CEQA); and provide funding for the Project to allow the lessee, American Golf Corporation, to implement the Project by executing Amendment No. 7 (Amendment) to the current County Operating Lease Agreement No. 67269 (Lease Agreement).

Project Description and Background

Lakewood Golf Course is an historic, regulation 18-hole golf course established in 1933. The age, condition, and layout of the structures limit the functionality and commercial capabilities of the facility. Lakewood Golf Course is operated, managed, and maintained by American Golf Corporation under a lease with the County of Los Angeles.

American Golf Corporation has procured the services of consultants to provide design, architecture, engineering and construction documents for the proposed Project.

The proposed Project will be implemented in two phases. Phase 1 includes the replacement of the existing cart barn with a new structure with a mechanical repair and washing area, offices, and a conference room; complete renovation of the entry plaza, including a drop-off area, cart staging area, new restrooms in the existing pro shop, and range entry; parking lot refurbishment; and the renovation of the driving range, including the tee line, shade structure, range targets, electrical upgrades, and Americans with Disabilities Act (ADA) accessibility upgrades. Phase 2 includes the renovation and expansion of the coffee shop, bar, banquet room, offices, and patio area; restroom upgrades; building flooring, finish, electrical, and lighting upgrades; and ADA accessibility upgrades. An amendment to the current lease is necessary to address the implementation of Capital Projects funded by the County.

Implementation of Strategic Plan Goals

The recommendations support the Board-approved County Strategic Plan Goals of Operational Effectiveness/Fiscal Sustainability (Goal 1) by enhancing recreational and health-promoting opportunities that benefit County residents.

Green Building/Sustainable Design

The proposed Project will support the Board's Sustainable Design Program by enhancing the sustainability of the site and maximizing the re-use of sustainable and local resources.

FISCAL IMPACT/FINANCING

The Project's total proposed budget of \$6,589,000 consists of a base construction cost of \$5,490,000 and a contingency fund of \$1,099,000. The proposed Project Schedule and Budget Summary are included in Attachment I.

Upon the Board's approval of the Amendment, payments to American Golf Corporation will be made from Capital Project (CP) No. 87324. Under the terms of the Amendment, an initial payment of twenty-five percent of the base construction cost will be issued to American Golf Corporation upon approval of plans, specifications, and construction contract. This payment is necessary for the start-up cash flow commitments of a large construction project. Thereafter, progress payments will be made based on the percentage of project completion. The final ten percent of the construction cost will be paid to American Golf Corporation upon project completion and acceptance by the Department of Parks and Recreation (Department).

In the event the actual costs of the proposed Project exceed the Board approved Project budget, including the contingency fund, the Amendment to the Lease Agreement authorizes the Department to use the available balance in the Lakewood Golf Course Capital Improvement Project (CIP) Fund in order to complete the proposed Project. The CIP Fund, which shall be utilized only if Project costs exceed the net County cost contribution, is a County trust account established in accordance with the terms of the Lease Agreement to provide for capital and infrastructure improvements for the golf course.

Approval of the attached appropriation (Attachment II) will appropriate \$6,589,000 of net County cost from the Fourth District into to the Project, CP No. 87324 from: CP No. 77131, Lakewood Golf Course New Cart Storage Building (\$2,200,000); CP No. 77132, Lakewood Golf Course Driving Range Improvements (\$2,310,000); CP No. 77133, Lakewood Golf Course New Junior Tee, Practice Tee and Green (\$1,094,000); and CP No. 77134, Los Verdes Golf Course Driving Range Improvements (\$985,000) to fund the proposed Project.

Operating Budget Impact

There will be no operating budget impact. The Lease Agreement requires American Golf Corporation to operate and maintain the golf courses.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

A Lease Agreement was executed with American Golf Corporation to operate, manage, and maintain Lakewood Golf Course. The proposed Amendment to the Lease Agreement will provide for the construction of the proposed capital improvements to be managed by American Golf Corporation. As required in the existing lease, American Golf Corporation shall provide a performance bond in an amount of not less than one hundred percent of the construction cost. American Golf Corporation shall maintain the performance bond in full force and effect until the work for the Project has been accepted by the Acting Director of the Department of Parks and Recreation.

The Amendment has been revised to include contract provisions approved and required by the Board since the execution of previous amendments or original lease agreements, where applicable. Such contract provisions include the Smoking Ban Ordinance, Defaulted Property Tax Reduction Program, Use of Expanded Polystyrene (EPS) Food Containers, Green Initiatives, and Artificial Trans-Fat Reduction Program. The Amendment also includes, as Attachment 2, a Contractor Cash Flow Advance Plan that sets forth provisions to distribute, monitor and recover payments to American Golf Corporation pursuant to the County Fiscal Manual.

American Golf Corporation, as Lessee, has executed the attached Amendment. County Counsel has approved the Amendment as to form.

In accordance with the Board's Civic Art Policy adopted December 7, 2004, and last revised on August 11, 2015, the proposed Project is exempt from the policy because it is a commercial project.

ENVIRONMENTAL DOCUMENTATION

The proposed Project is categorically exempt from CEQA. The proposed Project, which consists of the replacement of the existing cart barn with a new structure with a mechanical repair and washing area, offices, and a conference room; complete renovation of the entry plaza, including a drop-off area, cart staging area, new restrooms in the existing pro shop, and range entry; parking lot refurbishment; renovation of the driving range, including the tee line, shade structure, range targets, electrical upgrades; ADA accessibility upgrades; renovation and expansion of the coffee shop, bar, banquet room, offices, and patio area; restroom upgrades; and building flooring, finish, electrical and lighting upgrades, is within certain classes of projects that have been determined not to have a significant effect on the environment in that it meets the criteria set forth in Sections 15301(d) (e) (I), 15302 (c), 15303 (e), and 15331 of the State CEQA Guidelines, and Classes 1 (c) (g) (h), 2 (a), and 3 (b) of the County's Environmental Document Reporting Procedures and Guidelines, Appendix G, because the Project involves restoration or rehabilitation of deteriorated or damaged structures, facilities, or mechanical equipment to meet current standards of public health and safety; addition to existing structures provided that the addition will not result in an increase of more than 10,000 square feet; demolition and removal of individual small structures; replacement or reconstruction of existing utility systems and/or facilities involving negligible or no expansion of capacity; new construction of accessory structures; and the rehabilitation of historical resources consistent with the Secretary of Interior's Standards for the Treatment of Historic Properties with Guidelines for the Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings (1995) Weeks and Grimmer. There are no cumulative impacts, unusual circumstances or other limiting factors that would make use of the exemption inapplicable based on the Project records.

The proposed Project will not involve the removal of healthy, mature, and scenic trees. Additionally, the proposed Project is not in a sensitive environment, and there are no cumulative impacts, unusual circumstances, or other limiting factors that would make the exemption inapplicable based on the proposed Project's records.

CONTRACTING PROCESS

Under the terms of the Amendment, American Golf Corporation will provide all services required for the successful completion of the Project, including construction plans and specifications, obtaining all required permits, inspections and approvals, soliciting a minimum of three bids, contracting for the actual construction of the proposed Project, enforcing contract requirements related to licensing and bonding, completion of as-built drawings, and proper close-out of the contract. All contractors providing labor for the Project will be required to pay not less than the specified general prevailing wage rates as established by the state of California. In addition, the Amendment provides that the Department must approve the plans and specifications for the proposed Project and the Department's Golf Operations Section will oversee its construction and approve all payment applications submitted by American Golf Corporation.

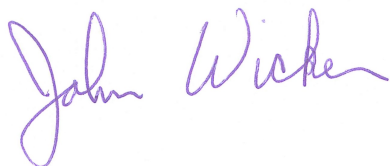
IMPACT ON CURRENT SERVICES (OR PROJECTS)

It is anticipated that the golf courses will remain open during the construction and implementation of the proposed Project. American Golf Corporation will be required to inform the general golfing public, as well as the men's, women's, and senior's golf clubs of the course improvements. In addition, signs will be placed at the courses indicating the construction schedules.

CONCLUSION

Upon approval by the Board, please instruct the Executive Office-Clerk of the Board, to forward one adopted copy to the Chief Executive Office, Capital Projects Division, and one adopted copy to the Department of Parks and Recreation.

Respectfully submitted,



JOHN WICKER
Acting Director

JW:RM:MR
KH:JB:ck

c: Chief Executive Officer
County Counsel
Executive Officer, Board of Supervisors

Attachment I

**DEPARTMENT OF PARKS AND RECREATION:
LAKEWOOD GOLF COURSE IMPROVEMENTS AND
CART BARN REPLACEMENT PROJECT
CAPITAL PROJECT NO. 87324
(SUPERVISORIAL DISTRICT 4) (3 VOTES)**

I. PROJECT SCHEDULE

Project Activity	Phase 1 Scheduled Completion	Phase 2 Scheduled Completion
Board Approval	03/22/2016	03/22/2016
Jurisdictional Approvals	04/05/2016	04/13/2016
Start Construction	04/18/2016	05/04/2016
Substantial Completion	11/09/2016	11/18/2016
Project Acceptance	11/29/2016	12/12/2016

II. PROJECT BUDGET SUMMARY

Project Activity	Proposed Budget
Land Acquisition	\$ 0
Construction	
Purchase Order Contract	0
Construction Contract	\$5,490,000
Contingency/Change Orders	\$1,099,000
Departmental Crafts Parks Department Trails	0
Youth Employment	0
Construction Consultants	0
Telecomm Equip – Affixed to Building	0
Civic Arts	0
Subtotal	\$ 6,589,000
Programming/Development	0
Plans and Specifications*	0
Consultant Services	
Architecture & Engineering Services	0
DPW Engineering Services	0
Geotech/Soils Report and Soils Testing	0
Material Testing	0
Cost Estimating	0
Topographic Surveys	0
Construction Management	0
Construction Administration / Gordian	0
Environmental	0
Utilities/Change Order	0
Other Expenditure:	0
Subtotal	\$0
Miscellaneous Expenditures – Furniture	0
Jurisdictional Review/Plan Check/Permit	\$0
County Services	
Code Compliance Inspection	0
Quality Control Inspection	0
Design Review	0
Contract Administration	0
Gordian Group	0
Project Management Support Services	0
ISD Job Order Contract Management	0
DPW Job Order Contract Management	0
ISD Communications/Data	0
Project Security	0
Project Technical Support	0
Office of Contract Compliance	0
Subtotal	\$0
TOTAL	\$6,589,000

Attachment II

**DEPARTMENT OF PARKS AND RECREATION:
LAKEWOOD GOLF COURSE IMPROVEMENTS AND
CART BARN REPLACEMENT PROJECT
CAPITAL PROJECT NO. 87324
(SUPERVISORIAL DISTRICT 4) (3 VOTES)**

APPROPRIATION ADJUSTMENT

(SEE ATTACHED)

PINK

BA FORM 03/13

BOARD OF
SUPERVISORS
OFFICIAL COPY

COUNTY OF LOS ANGELES

REQUEST FOR APPROPRIATION ADJUSTMENT

DEPARTMENT OF PARKS AND RECREATION

DEPT'S.
NO. 600

March 29, 2016 *March 22, 2016*

AUDITOR-CONTROLLER:

THE FOLLOWING APPROPRIATION ADJUSTMENT IS DEEMED NECESSARY BY THIS DEPARTMENT. PLEASE CONFIRM THE ACCOUNTING ENTRIES AND AVAILABLE BALANCES AND FORWARD TO THE CHIEF EXECUTIVE OFFICER FOR HIS RECOMMENDATION OR ACTION.

ADJUSTMENT REQUESTED AND REASONS THEREFOR

FY 2015-16

3 - VOTES

SOURCES

BA DETAIL - SEE ATTACHMENT PAGE1

USES

BA DETAIL - SEE ATTACHMENT PAGE1

SOURCES TOTAL: \$ 6,589,000

USES TOTAL: \$ 6,589,000

JUSTIFICATION

The appropriation adjustment is necessary to fully fund the Lakewood Golf Course Improvements and Cart Barn Replacement, Capital Project No. 87324.

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

Malou Rubio
AUTHORIZED SIGNATURE MALOU RUBIO, DEPT. FINANCE MANAGER II

BOARD OF SUPERVISOR'S APPROVAL (AS REQUESTED/REVISED)

19 MAR 22 2016

Lori Glasgow
LORI GLASGOW
EXECUTIVE OFFICER

REFERRED TO THE CHIEF
EXECUTIVE OFFICER FOR ---

☐ ACTION

☒ RECOMMENDATION

AUDITOR-CONTROLLER

BY

B.A. NO. 150

Mark S 20 16

☒ APPROVED AS REQUESTED

☐ APPROVED AS REVISED

CHIEF EXECUTIVE OFFICER

BY

Chia-Ann Yen
march 8 20 16

COUNTY OF LOS ANGELES
REQUEST FOR APPROPRIATION ADJUSTMENT
DEPARTMENT OF PARKS AND RECREATION
F.Y. 2015-16
3-VOTES

SOURCES

PARKS AND RECREATION
REFURB. LAKEWOOD GOLF COURSE NEW CART STORAGE BUILDING
A01-CP-6014-65043-77131
CAPITAL ASSETS-BUILDINGS AND IMPROVEMENTS \$ 2,200,000
DECREASE APPROPRIATION

PARKS AND RECREATION
REFURB. LAKEWOOD GOLF COURSE DRIVING RANGE IMPROVEMENTS
A01-CP-6014-65043-77132
CAPITAL ASSETS-BUILDINGS AND IMPROVEMENTS \$ 2,310,000
DECREASE APPROPRIATION

PARKS AND RECREATION
REFURB. LWGC NEW JR. TEE, PRACTICE TEE AND GREEN
A01-CP-6014-65043-77133
CAPITAL ASSETS-BUILDINGS AND IMPROVEMENTS \$ 1,094,000
DECREASE APPROPRIATION

PARKS AND RECREATION
REFURB. LOS VERDES GOLF COURSE DRIVING RANGE IMPROVEMENTS
A01-CP-6014-65043-77134
CAPITAL ASSETS-BUILDINGS AND IMPROVEMENTS \$ 985,000
DECREASE APPROPRIATION

TOTAL **\$ 6,589,000**

USES

PARKS AND RECREATION
LAKEWOOD GOLF COURSE IMPROVEMENTS AND CART BARN REPLACEMENT
A01-CP-6014-65043-87324
CAPITAL ASSETS-BUILDINGS AND IMPROVEMENTS \$ 6,589,000
INCREASE APPROPRIATION

TOTAL **\$ 6,589,000**

JUSTIFICATION:

THE APPROPRIATION ADJUSTMENT IS NECESSARY TO FULLY FUND THE LAKEWOOD GOLF COURSE IMPROVEMENTS AND CART BARN REPLACEMENT, CAPITAL PROJECT NO. 87324.

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

19 - MAR 22 2016

Lori Glasgow
LORI GLASGOW
EXECUTIVE OFFICER

BA# 150

Larson 3/8/16

**AMENDMENT NO. 7 TO LEASE AGREEMENT NO. 67269 FOR THE
OPERATION AND MAINTENANCE OF LAKEWOOD COUNTY GOLF COURSE**

This Amendment to Lease Agreement, made and entered into this _____ day of _____, 2016,

BY AND BETWEEN THE

COUNTY OF LOS ANGELES,
a body corporate and politic,
hereinafter referred to as "County",

AND

AMERICAN GOLF CORPORATION,
a California, for-profit corporation,
hereinafter referred to as the "Lessee",

W I T N E S S E T H:

WHEREAS, the parties hereto have entered into County lease agreement Number 67269 (hereinafter: the "Lease") on December 21, 1993 for the operation and maintenance of Lakewood Country Club and Tennis Center; and

WHEREAS, on June 16, 1998, the County entered into a Lease Amendment (Amendment No. 1) to the Lease Agreement pursuant to which, among other things, Lessee agreed to delete a portion of the Property consisting of a parcel of land approximately 11,205 square feet; and

WHEREAS, on November 26, 2001, the County entered into a Lease Amendment (Amendment No. 2) to the Lease Agreement pursuant to which, among other things, increased the monthly gross green fee revenues paid by Lessee into a trust fund account which is used for Capital Improvements on the demised premises from five percent (5%) to ten percent (10%); and

WHEREAS, on March 12, 2002, the County entered into a Lease Amendment (Amendment No. 3) to the Lease Agreement pursuant to which, among other things, the County provided General Funds for Capital Improvements and addressed Lessees obligations in managing said funds and construction project; and

WHEREAS, on September 22, 2002, the County entered into a Lease Amendment (Amendment No. 4) to the Lease Agreement pursuant to which, among other things, the Lessee began collecting funds for the County's Junior Golf Program; and

WHEREAS, on November 19, 2002, the County entered into a Lease Amendment (Amendment No. 5) to the Lease Agreement pursuant to which, among other things, the County provided additional General Funds for Capital Improvements and addressed Lessees obligations in managing said funds and construction project; and

WHEREAS, on January 14, 2008, the County and Lessee entered into a Lease Amendment (Amendment No. 6) to the Lease Agreement pursuant to which, among other things, Lessee began collecting the Golf Course Improvement Fee; and

WHEREAS, the County has allocated certain capital projects funding from its General Funds to provide for the installation of new cart storage area, a new driving range tee line, new restrooms and a patio enclosure project at Lakewood Golf Course; and

WHEREAS, the Lease, Section 7. infra, does adequately provide for the proper implementation by the Lessee of construction projects on the demised premises; and

WHEREAS, the Lessee has prepared, and the Director of the County's Department of Parks and Recreation ("Director" or his authorized representative) concurs with the Project scope of work, plans and specifications as set forth in the attached Exhibit A which by this reference is incorporated herein, and the Lessee shall put the Project out to bid, and select the lowest responsive bidder; and

WHEREAS, the County and Lessee desire to amend the Lease to address the requirements involved with financing the Project from the County General Fund; and

WHEREAS, the County and Lessee desire to enter into this Lease Amendment Number 7 to Lease Agreement number 67269;

NOW, THEREFORE, the parties hereto agree as follows:

1. FUNDING ARRANGEMENTS FOR THE USE OF COUNTY GENERAL FUNDS

The Scope of Work for the Lakewood Golf Course General Improvements consists of; new cart barn with a capacity of 100 carts, new multi-purpose entry plaza, renovation of existing driving range tee-line, new outdoor restrooms, coffee shop and patio remodel and an outdoor patio area barbeque.

- 1.01 The County agrees to provide for the funding of the Project, currently estimated to cost \$5,490,000. The identified source of County funds, in an amount not to exceed \$6,589,000, is the County General Fund. In the event of cost overruns and approved change orders in excess of \$6,589,000, the Golf Course Capital Improvement Program ("CIP") trust account may be utilized. .
- 1.02 Upon final approval by the Director of the plans, specifications and construction contract, the Director will authorize the issuance of the initial advance payment to the Lessee in the amount of twenty-five percent (25%) of the base construction cost. Thereafter, the Director will authorize progress advance payments to Lessee ("Advances") based on percentage of completion. The final ten percent of the construction cost will be paid to Lessee upon project completion and acceptance by the Director.
- 1.03 Prior to issuing the second and succeeding Advances to Lessee, the Department will reconcile the prior Advances with Lessees actual

payments to the construction contractor using copies of actual cancelled checks issued by Lessee to the construction contractor.

- 1.04 Lessee and the County agree that the Project funds will be spent in accordance with the following spending priority spending procedure: (1) County General Fund moneys, and then (2) County CIP funds.
- 1.05 In the event Lessee and the County anticipate, at any time, that the Project will be completed for less than the cost of \$6,589,000, Lessee and the County agree that any anticipated funding surplus will be reserved until completion of the Project as a contingency for change orders to the approved scope of work.
- 1.06 In the event that the costs of the completed Project are less than \$6,589,000 any unexpended funds shall be returned to the County General Fund.
- 1.07 The project shall be conducted in full accordance with the Golf Manual, Section B of this Agreement except for Chapter 2, Paragraph E, Advance Payment to Golf Course Management, Subsection 1(a).
- 1.08 The Contractor Cash Flow Advance Plan (Attachment 2), is hereby incorporated by reference, and shall be in effect at all times during this project.
- 1.09 At any time, the Lessees accounts, ledgers, bank statements, and support documents of record for the Project shall be subject to audit by the County.

2.0 ACCOUNTING RECORDS

2.01 Section 5 Accounting Records is deleted in its entirety and replaced with the following:

5. ACCOUNTING RECORDS

The Lessee shall maintain accurate and complete financial records of its activities and operations relating to this Lease Agreement in accordance with generally accepted accounting principles. The Lessee shall also maintain accurate and complete employment and other records relating to its performance of this Lease Agreement. The Lessee agrees that the County, or its authorized representatives, shall have access to and the right to examine, audit, excerpt, copy, or transcribe any pertinent transaction, activity, or record relating to this Lease Agreement. All such material, including, but not limited to, all financial records, bank statements, cancelled checks or other proof of payment, timecards, sign-in/sign-out sheets and other time and employment records, appropriate documentation for voided transactions (including approval for the void), and proprietary data and information, shall be kept and maintained by the Lessee and shall be made available to the County during the term of this Lease Agreement for eight (8) years from the date of transaction and for a period of five (5) years after the termination of the Lease Agreement unless the County's written permission is given to dispose of any such material prior to such time. All such material shall be maintained by the Lessee at a location in Los Angeles County, provided that if any such material is located outside Los Angeles County, then, at the County's option, the Lessee shall pay the County for travel, per diem, and other costs incurred by the County to examine, audit, excerpt, copy, or transcribe such material at such other location.

- 5.01 In the event that an audit of the Lessee is conducted specifically regarding this Lease Agreement by any Federal or State auditor, or by any auditor or accountant employed by the Lessee or otherwise, then the Lessee shall file a copy of such audit report with the County's Auditor Controller within thirty (30) days of the Lessee's receipt thereof, unless otherwise provided by applicable Federal or State law or under this Lease Agreement. Subject to applicable law, the County shall make a reasonable effort to maintain the confidentiality of such audit report(s).
- 5.02 Failure on the part of the Lessee to comply with any of the provisions of this Section 6 shall constitute an event of default as defined in Section 20 of the Lease Agreement and subject to the provisions of that Section 20 the County may pursuant to Section 19 of the Lease Agreement cancel (terminate) or suspend this Lease Agreement.
- 5.03 If the County notifies the Lessee that the Lessee did/does not, to the reasonable satisfaction of the County (1) adequately maintain the documents required under Section 6 of the Lease Agreement, and/or (2) did/does not have adequate internal controls, such that financial records could contain material errors and/or material omissions that would not be prevented and/or detected in the normal course of business, and/or (3) if the County is not able to reasonably determine whether the Lessee reported and paid the correct amount due to the County under this Lease Agreement, then the County will assess penalties specified in this section upon the Lessee. The parties hereby agree that it will be impracticable or extremely difficult to fix the extent of actual damages resulting from the failure of the Lessee to meet the requirements of this sub-section of the Lease

Agreement, and that a reasonable estimate of such damages shall be \$500 per day for each day of the audit period in which the Lessee did not meet the requirements under this sub-section of the Lease Agreement, and/or the County may terminate this Lease Agreement subject to the provisions of Section 19 and Section 20 of this Lease Agreement.

- 5.04 In the event the County hires an Independent Certified Public Accounting firm (CPA) to perform an audit of the Lessee's gross receipts and/or payments to the County, and if the CPA concludes that, due to inadequate records maintained by the Lessee, the CPA is unable to issue an unqualified opinion as to gross receipts for the Lessee, the CPA may employ alternative methods to impute rent for the period of inadequate records and ~~calculate~~ rent due. The CPA (or the County) may use the Lessee's gross receipts last audited (in which an unqualified audit opinion was expressed), inflated by the Consumer Price Index for All Urban Consumers for the Los Angeles, Riverside, and Orange County areas. Interest/late fees may also be separately applied. In any audit outlined in this Section 6.05 where a CPA firm is unable to issue an unqualified opinion as to Gross Receipts, Lessee shall pay for the cost of the CPA's audit and/or the County's review (including County costs associated with the CPA's audit, such as monitoring the audit, etc.).
- 5.05 In the event the County and/or a CPA firm concludes that the Lessee under-reported Gross Receipts to the County, and that under-reporting is equal to or greater than 2% of the Gross Receipts reported by the Lessee for the same period, and there being no reasonable basis

for the failure to report and pay as determined at the sole discretion of the County, the Lessee shall pay for the cost of the CPA's audit and/or the County's review (including County costs associated with the CPA's audit, such as monitoring the audit, etc.).

5.06 Lessee shall furnish the Director with a monthly gross receipts report showing the amount payable to the County, and verification of all golf cart rental forms used during the month. Such a report shall accompany each monthly payment required to be made as provided herein. The monthly reporting period shall be by calendar month, rather than monthly anniversary date of the effective date of this Lease Agreement. In addition thereto, Lessee shall furnish the Director with monthly profit and loss statements and an annual profit and loss statement and a balance sheet prepared by a person and in a form acceptable to the Director. The monthly profit and loss statements shall be submitted within forty (40) days of the close of each monthly period. The annual financial statement shall be submitted within sixty (60) days of the close of an agreement year. Said closing date shall be determined by reference to the date for commencement of the term herein provided.

5.07 Lessee shall at all times during Lease Agreement period and for five (5) years after the termination/expiration of the Lease Agreement, keep, or cause to be kept, locally, to the reasonable satisfaction of the County true, accurate, and complete records for all accounting years covered by this Lease Agreement. Records will show all transactions relative to the conduct of operations, and be supported by data of original entry. Records shall detail transactions

conducted on or from the premises separate and apart from those in connection with Lessee's other business operations, if any.

- 5.08 All sales and/or services shall be recorded by cash registers or computers which publicly display the amount of each sale and automatically issue a pre-numbered customer's receipt or certify the amount recorded on a sales slip. Cash registers shall have locked in sales totals and transaction counters that constantly accumulate and cannot be reset, and issue a tape (or other equivalent security mechanism) located within the register that imprints sequential transaction numbers and sales details. Beginning and ending cash register readings shall be made a matter of daily record. In the event of a technical or electrical failure of the cash register, or when the use of an electric cash register is impracticable (e.g. beverage cart or remote barbeque sales), Lessee shall record by hand all collections, and issue a sequentially pre-numbered customer's receipt in like manner. Signs shall be visibly posted near all cash registers requesting the payer to ask the cashier for a receipt and, if possible, the sign should include a sample of the appropriate receipt."

3. INDEMNIFICATION AND INSURANCE REQUIREMENTS

- 3.01 Section 16 Insurance, is deleted in its entirety and replaced with the following:

16. GENERAL PROVISIONS FOR ALL INSURANCE COVERAGE

Without limiting Lessee's indemnification of County and the United States, and in the performance of this Lease Agreement and until all of its obligations pursuant to this Lease Agreement have been met, Lessee shall provide and maintain at its own expense insurance coverage satisfying the requirements specified in

Sections 14.02.01 and 14.02.02 of this Lease Agreement. These minimum insurance coverage terms, types and limits (the "Required Insurance") also are in addition to and separate from any other contractual obligation imposed upon Lessee pursuant to this Lease Agreement. The County in no way warrants that the Required Insurance is sufficient to protect the Lessee for liabilities which may arise from or relate to this Lease Agreement.

16.01 Evidence of Coverage and Notice to County

- Certificate(s) of insurance coverage (Certificate) satisfactory to County, and a copy of an Additional Insured endorsement confirming County and the County of Los Angeles Flood Control District, their agents, officers, and employees (defined below) has been given Insured status under the Lessee's General Liability policy, shall be delivered to County at the address shown below and provided prior to commencing services under this Sublease.
- Renewal Certificates shall be provided to County not less than 10 days prior to Lessee's policy expiration dates. The County reserves the right to obtain complete, certified copies of any required Lessee and/or Sub-Lessee insurance policies at any time.
- Certificates shall identify all Required Insurance coverage types and limits specified herein, reference this Sublease by name or number, and be signed by an authorized representative of the insurer(s). The Insured party named on the Certificate shall match the name of the Lessee identified as the contracting party in this Sublease. Certificates shall provide the full name of each insurer providing coverage, its NAIC (National

Association of Insurance Commissioners) identification number, its financial rating, the amounts of any policy deductibles or self-insured retentions exceeding fifty thousand (\$50,000.00) dollars, and list any County required endorsement forms.

- Neither the County's failure to obtain, nor the County's receipt of, or failure to object to a non-complying insurance certificate or endorsement, or any other insurance documentation or information provided by the Lessee, its insurance broker(s) and/or insurer(s), shall be construed as a waiver of any of the Required Insurance provisions.

Certificates and copies of any required endorsements shall
be sent to:

County of Los Angeles
Parks and Recreation

Contracts, Golf and Special Districts Division
301 North Baldwin Avenue, Arcadia, CA 91007

Attention: Kandy Hays, Chief

Lessee also shall promptly report to County any injury or property damage accident or incident, including any injury to a Lessee employee occurring on County property, and any loss, disappearance, destruction, misuse, or theft of County property, monies or securities entrusted to Lessee. Lessee also shall promptly notify County of any third party claim or suit filed against Lessee or any of its Sub-Lessees which arises from or relates to this Sublease, and could result in the filing of a claim or lawsuit against Lessee and/or County.

16.01.01 Additional Insured Status and Scope of Coverage

The County of Los Angeles, its Special Districts, the County of Los Angeles Flood Control District, Elected Officials, Officers, Agents, Employees and Volunteers (collectively County and its Agents) shall be provided additional insured status under Lessee's General Liability policy with respect to liability arising out of Lessee's ongoing and completed operations performed on behalf of the County. County and its Agents additional insured status shall apply with respect to liability and defense of suits arising out of the Lessee's acts or omissions, whether such liability is attributable to the Lessee or to the County. The full policy limits and scope of protection also shall apply to the County and its Agents as an additional insured, even if they exceed the County's minimum Required Insurance specifications herein. Use of an automatic additional insured endorsement form is acceptable providing it satisfies the Required Insurance provisions herein.

16.01.02 Cancellation of or Changes in Insurance

Lessee shall provide County with, or Lessee's insurance policies shall contain a provision that County shall receive, written notice of cancellation or any change in Required Insurance, including insurer, limits of coverage, term of coverage or policy period. The written

notice shall be provided to County at least ten (10) days in advance of cancellation for non-payment of premium and thirty (30) days in advance for any other cancellation or policy change. Failure to provide written notice of cancellation or any change in Required Insurance may constitute a material breach of the Contract, in the sole discretion of the County, upon which the County may suspend or terminate this Contract.

16.01.03 Failure to Maintain Insurance

Lessee's failure to maintain or to provide acceptable evidence that it maintains the Required Insurance shall constitute a material breach of the Contract, upon which County immediately may withhold payments due to Lessee, and/or suspend or terminate this Contract. County, at its sole discretion, may obtain damages from Lessee resulting from said breach. Alternatively, the County may purchase the Required Insurance, and without further notice to Lessee, deduct the premium cost from sums due to Lessee or pursue Lessee reimbursement.

16.01.04 Insurer Financial Ratings

Coverage shall be placed with insurers acceptable to the County with A.M. Best ratings of not less than A:VII unless otherwise approved by County.

16.01.05 Lessee's Insurance Shall Be Primary

Lessee's insurance policies, with respect to any claims related to this Sublease, shall be primary with respect to all other sources of coverage available to Lessee. Any County maintained insurance or self-insurance coverage shall be in excess of and not contribute to any Lessee coverage.

16.01.06 Waivers of Subrogation

To the fullest extent permitted by law, the Lessee hereby waives its rights and its insurer(s)' rights of recovery against County under all the Required Insurance for any loss arising from or relating to this Sublease. The Lessee shall require its insurers to execute any waiver of subrogation endorsements which may be necessary to affect such waiver.

16.01.07 Sub-Lessee Insurance Coverage Requirements

Lessee shall include all Sub-Lessees as insureds under Lessee's own policies, or shall provide County with each Sub-Lessee's separate evidence of insurance coverage. Lessee shall be responsible for verifying each Sub-Lessee complies with the Required Insurance provisions herein, and shall require that each Sub-Lessee name the County and Lessee as additional insureds on the Sub-Lessee's General Liability policy. Lessee shall obtain County's prior review and approval of any Sub-Lessee

request for modification of the Required Insurance.

16.01.08 Deductibles and Self-Insured Retentions (SIRs)

Lessee's policies shall not obligate the County to pay any portion of any Lessee deductible or SIR. The County retains the right to require Lessee to reduce or eliminate policy deductibles and SIRs as respects the County, or to provide a bond guaranteeing Lessee's payment of all deductibles and SIRs, including all related claims investigation, administration and defense expenses. Such bond shall be executed by a corporate surety licensed to transact business in the State of California.

16.01.09 Claims Made Coverage

If any part of the Required Insurance is written on claims made basis, any policy retroactive date shall precede the effective date of this Sublease. Lessee understands and agrees it shall maintain such coverage for a period of not less than three (3) years following Sublease expiration, termination or cancellation.

16.01.10 Application of Excess Liability Coverage

Lessees may use a combination of primary, and excess insurance policies which provide coverage as broad as ("follow form" over) the underlying primary policies, to satisfy the Required Insurance provisions.

16.01.11 Separation of Insureds

All liability policies shall provide cross-liability coverage as would be afforded by the standard ISO (Insurance Services Office, Inc.) separation of insured's provision with no insured versus insured exclusions or limitations.

16.01.12 Alternative Risk Financing Programs

The County reserves the right to review, and then approve, Lessee use of self-insurance, risk retention groups, risk purchasing groups, pooling arrangements and captive insurance to satisfy the Required Insurance provisions. The County and its Agents shall be designated as an Additional Covered Party under any approved program.

16.01.13 County Review and Approval of Insurance Requirements

The County reserves the right to review and adjust the Required Insurance provisions, conditioned upon County's determination of changes in risk exposures.

16.02 INSURANCE COVERAGE REQUIREMENTS

16.02.01 Commercial General Liability

Insurance (providing scope of coverage equivalent to ISO policy form CG 00 01), naming Lessor and its Agents as an additional insured. Policy will be endorsed for golf course operations and will have no exclusions for sporting events, with limits of not less than:

General		Aggregate:
		\$4,000,000
Products/Completed	Operations	Aggregate:
		\$4,000,000
Personal and Advertising		Injury:
\$4,000,000		
Each		Occurrence:
\$4,000,000		

16.02.02 Automobile Liability

Insurance (providing scope of coverage equivalent to ISO policy form CA 00 01) with limits of not less than \$1 million for bodily injury and property damage, in combined or equivalent split limits, for each single accident. Insurance shall cover liability arising out of Lessee's use of autos pursuant to this Sublease, including owned, leased, hired, non-owned autos, and/or mobile equipment (i.e. golf carts) as each may be applicable.

16.02.03 Workers Compensation and Employers' Liability

Insurance or qualified self-insurance satisfying statutory requirements, which includes Employers' Liability coverage with limits of not less than \$1 million per accident. If Lessee will provide leased employees, or, is an employee leasing or temporary staffing firm or a professional employer organization (PEO), coverage also shall include an Alternate

Employer Endorsement (providing scope of coverage equivalent to ISO policy form WC 00 03 01 A) naming the County as the Alternate Employer, and the endorsement form shall be modified to provide that County will receive not less than thirty (30) days advance written notice of cancellation of this coverage provision. If applicable to Lessee's operations, coverage also shall be arranged to satisfy the requirements of any federal workers or workmen's compensation law or any federal occupational disease law.

16.02.04 Sexual Misconduct Liability

Insurance covering actual or alleged claims for sexual misconduct and/or molestation with limits of not less than \$2 million per claim and \$2 million aggregate, and claims for negligent employment, investigation, supervision, training or retention of, or failure to report to proper authorities, a person(s) who committed any act of abuse, molestation, harassment, mistreatment or maltreatment of a sexual nature.

16.02.05 Property Coverage

Lessee's use of County owned or leased property for storage of Lessee's personal property, shall require Lessee to carry property coverage at least as broad as that provided by the ISO special causes of loss (ISO policy form CP 10 30) form. The County and its Agents shall be named as an Additional Insured and

Loss Payee on Lessee's insurance as its interests may appear. Automobiles and mobile equipment shall be insured for their actual cash value. Real property and all other personal property shall be insured for their full replacement value.

16.02.06 Periods of Construction

During the period(s) of construction as required or authorized herein, and in addition to the aforementioned insurance coverage, Lessee shall provide the following forms and amounts of insurance:

- a. Builder's All-Risk Insurance: including flood coverage, covering the entire work, against loss or damage until completion and acceptance by the Director. Insurance shall be in an amount for the replacement value of the improvements and endorsed for broad form property damage, breach of warranty, explosion, collapse, and underground hazards. Deductibles shall not exceed five percent (5%) of the construction cost.
- b. Professional Liability: Insurance covering liability arising from any error omission, or negligent act of the Lessee, its officers,

employees, contractors, or agents with a limit of not less than One Million Dollars (\$1,000,000) per claim.

4. TRANSFERS

5.01 Section 18 Transfers is deleted in its entirety and replaced with the following:

18. TRANSFERS

18.01 Lessee shall not assign its rights, delegate its duties, sublease, hypothecate, or mortgage this Lease Agreement, whether in whole or in part, with or without consideration, without the prior written consent of County. Any attempted assignment, delegation, sublease license, hypothecation, or mortgage without the consent shall be null and void, and at County's sole discretion, such assumption, assignment, delegation, or takeover of any of the Lessee's duties, responsibilities, obligations, or performance of same by any entity other than the Lessee, without County's express prior written approval, may result in the termination of the Lease Agreement. In the event of such termination, County shall be entitled to pursue the same remedies against the Lessee as it could pursue in the event of a default by Lessee. For purposes of this paragraph, County consent shall require a written Lease Amendment to the Lease Agreement, which is formally approved and executed by the parties. Any payments by County to any approved delegate or assignee on any claim under the Lease Agreement shall be deductible, at County's sole discretion, against the claims which Lessee may have against County.

- 18.02 Each and all of the provisions, agreements, terms, covenants and conditions herein contained to be performed by Lessee shall be binding upon any transferee thereof.
- 18.03 The use granted shall not be transferable by testamentary disposition or the State laws of interstate succession, as the rights, privileges, and use conferred by this Lease Agreement shall terminate prior to the date for expiration thereof in the event of the death of Lessee occurring within the term herein provided. Additionally, neither this Lease Agreement nor any interest therein shall be transferable in proceedings in attachment or execution against Lessee, or in voluntary or involuntary proceedings in bankruptcy or insolvency or receivership taken by or against Lessee, or by any process of law including proceedings under Chapter X or XI of the Bankruptcy Act.
- 18.04 Shareholders, partners, members or other equity holders of Lessee may transfer, sell, exchange, assign or divest themselves of any interest they may have therein. However, in the event any such sale, transfer, exchange, assignment or divestment is affected in such a way as to give majority control of Lessee to any person(s), corporation, partnership or legal entity other than the majority controlling interest therein at the time of the execution of this Lease Agreement, such disposition is an assignment requiring the prior written consent of the County in accordance with applicable provisions of this Lease Agreement and the transfer fee provided in Section 16.06 shall be assessed. Consent to any such transfer shall be refused if the Director, in his sole discretion, finds that the transferee is lacking in experience and/or financial ability to conduct the operation of the Lakewood County Golf Course.

- 18.05 At any time during the term of this Lease Agreement, the Director may determine this Agreement null and void in the event that any of the qualifying individuals of the leasehold entity at the time of execution of this Agreement is/are no longer a partner in said entity, unless that individual is replaced by an individual who, in the Director's sole discretion, possesses the necessary qualifications and experience to operate the Lakewood County Golf Course or has in its employ a firm with the same qualifications. The Director's ability to determine the Agreement null and void shall be effectuated by providing Lessee with sixty (60) days written notice of such determination.
- 18.06 Any transfer, sale, exchange, assignment, or divestment of its rights and obligations pursuant to this Lease Agreement, as described in Paragraph 16.01 above, shall result in the Lessee paying to the County a transfer fee of the greater of (1) \$100,000 or (2) two percent (2%) of the greater of (a) the gross sale price or (b) the Fair Market Value (FMV) of Lessee's interest in the concession. The Director, in his sole discretion, may require Lessee to obtain, at Lessee's sole cost, an appraisal of the FMV of the Lessee's interest in the concession. The Director, at his sole discretion, may have the appraisal reviewed by an independent appraiser retained by County. The Director then reserves the right to require the Lessee, at Lessee's sole cost, to obtain an additional appraisal by a different appraiser. Said sum shall be payable to the County of Los Angeles Department of Parks and Recreation in full either within thirty (30) days after said consent is given or prior to the close of any escrow, whichever occurs first. Prior to Director's consent to such assignment, the assignor shall first deliver to assignee a

written schedule of all sums due and owing to County from the assignor with such schedule in a form subject to the approval of the Director in all respects, and second, shall deliver to Director, as part of the acceptance of the assignment, a written acknowledgment by the assignee that the assignee (a) affirms the sums due and owing to County and (b) accepts responsibility for payment of such sums directly to County.

5. COUNTY SMOKING BAN ORDINANCE

5.01 A new section 35, entitled Compliance With County's Smoking Ban Ordinance is added to the Lease Agreement and shall read as follows:

35.0 COMPLIANCE WITH COUNTY'S SMOKING BAN ORDINANCE

This Lease Agreement is subject to the provisions of the County's ordinance entitled Los Angeles County Code Title 17, Parks, Beaches, and Other Public Places, prohibiting smoking at County Parks ("Smoking Ban Ordinance") as codified in Sections 17.04.185 through 17.04.650 of the Los Angeles County Code."

6. COUNTY'S DEFAULTED PROPERTY TAX REDUCTION PROGRAM

6.01 A new section 36, entitled Lessee's Warranty of Compliance with County's Defaulted Property Tax Reduction Program is added to the Lease agreement and shall read as follows:

36.0 LESSEE'S WARRANTY OF COMPLIANCE WITH COUNTY'S DEFAULTED PROPERTY TAX REDUCTION PROGRAM

36.01 Lessee acknowledges that County has established a goal of ensuring that all individuals and businesses that benefit financially from County through contract are current in paying their property tax obligations (secured and unsecured roll) in order to mitigate the economic burden otherwise imposed upon County and its tax payers.

36.02 Unless Lessee qualifies for an exemption or exclusion, Lessee warrants and certifies that to the best of its knowledge it is now in compliance, and during the term of this Lease will maintain compliance, with Los Angeles County code Chapter 2.206."

7. TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S DEFAULTED PROPERTY TAX REDUCTION PROGRAM

7.02 A new Section 37, entitled Termination For Breach of Warranty to Maintain Compliance with County's Defaulted Property Tax Reduction Program is added to the Lease Agreement and shall read as follows:

Failure of Lessee to maintain compliance with the requirements set for in Paragraph 46, Lessee's Warranty of Compliance with County's Defaulted Property Tax Reduction Program, shall constitute default under this Lease. Without limiting the rights and remedies available to County under any other provisions of this contract, failure of Lessee to cure such default within 10 days of written notice shall be grounds upon which County may terminate this Lease and/or pursue debarment of Lessee, pursuant to County code chapter 2.206.

8. USE OF EXPANDED POLYSTYRENE (EPS) FOOD CONTAINERS

8.01 A new Section 38, entitled Use of Expanded Polystyrene (EPS) Food Containers, is added to the Lease Agreement and shall read as follows:

38. USE OF EXPANDED POLYSTYRENE (EPS) FOOD CONTAINERS

The Lessee shall be required to comply with the County's policy on restricting its purchase and use of EPS food containers on County-owned facilities."

9. GREEN INITIATIVES

9.01 A new Section 39, entitled Green Initiatives, is added to the Lease Agreement and shall read as follows:

39. GREEN INITIATIVES

The Lessee shall use reasonable efforts to initiate "green" practices to comply with the County's policy on energy and environmental conservation benefits.

10. ARTIFICIAL TRANS FAT REDUCTION PROGRAM

10.01 A new Section 40, entitled Artificial Trans Fat Reduction Program, is added to the Lease Agreement and shall read as follows:

40. ARTIFICIAL TRANS FAT REDUCTION PROGRAM

40.1 Lessee agrees that it will participate in the County's Artificial Trans Fat Reduction (ATFR) Program, which mandates that no foods containing 0.5 grams or more of artificial trans fat per serving be stored, distributed, held for service, and/or used in the preparation of any menu item or in the Demised Premises, except for food that is being served directly to consumers in a manufacturer's original sealed package. Lessee shall provide the written certification attached hereto as Exhibit M stating that it has reviewed and is familiar with the requirements of the ATFR Program and will promptly obtain approval as a participant from the County's Public Health Department. Further information can be found at www.lapublichealth.org.

40.2 Within 5 days of the County's execution of this Sublease, Lessee shall submit to the County's Public Health Department all required application materials for participation

in the ATFR Program, and shall thereafter diligently pursue approval as an ATFR participant. Lessee's failure to do either of the foregoing shall constitute a material breach of this Sublease and shall be grounds for immediate termination by the County. County shall have the right, in its sole discretion, to extend the time limit for submission of any and all application documents.

40.3 Upon County's approval of the Lessee's participation in the ATFR Program, Lessee shall have the same rights and obligations as any voluntary member of the ATFR Program (e.g., use of Program decal/logo, status updating, etc.), except for the right to terminate participation and as otherwise set forth herein.

40.4 In addition to any remedies provided the County by the ATFR Program's rules, any failure by Lessee to comply with the ATFR Program standards shall constitute a material breach of this Sublease entitling the County to terminate the Sublease in its entirety or, if the Lessee provides service to multiple Demised Premises, with respect to the non-compliant facility. Prior to and/or in lieu of termination, the County may also, at its discretion, do any or all of the following:

- a. Impose liquidated damages. The parties agree that it will be impracticable or extremely difficult to fix the extent of actual damages resulting from Lessee's breach of this Section 50. The parties hereby agree that under the current circumstances a reasonable estimate of such damages is \$100 per day per non-compliant facility and that Lessee shall be liable to County for that amount.
- b. Require removal of all ATFR Program logo, signage and other advertising materials from the non-compliant

Demised Premises and from any other location where such materials are used by the Lessee, including without limitation menus, menu boards, and dining table tent cards.

- c. Require Lessee to cure its non-compliance with ATFR Program standards within a period prescribed by the County, in its discretion.

11. LESSEE PERFORMANCE

11.01 A new Section 41, entitled Lessee Performance, is added to the Lease Agreement and shall read as follows:

41. LESSEE PERFORMANCE

The County maintains databases that track/monitor lessee performance history. Information entered into such databases may be used for a variety of purposes, including determining whether the County will exercise a contract term extension option.”

12. ACCEPTABLE FORMS OF PUBLIC REMITTANCE

12.01 A new Section 42, entitled Acceptable forms of Public Remittance, is added to the Lease Agreement and shall read as follows:

42. ACCEPTABLE FORMS OF PUBLIC REMITTANCE

In addition to cash and checks, the Lessee shall accept at least two (2) major credit cards as a form of payment made by the patrons for the services provided by the Lessee.

13. LESSEE RESPONSIBILITY AND DEBARMENT

13.01 A new Section 43, entitled Lessee Responsibility and Debarment, is added to the Lease Agreement and shall read as follows:

43. LESSEE RESPONSIBILITY AND DEBARMENT

43.1 Responsible Lessee

A responsible Lessee is a Lessee who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and experience to satisfactorily perform the Agreement. It is the County's policy to conduct business only with responsible Lessees.

43.2 Chapter 2.202 of the County Code

The Lessee is hereby notified that, in accordance with Chapter 2.202 of the County Code, if the County acquires information concerning the performance of the Lessee on this or other Agreements which indicates that the Lessee is not responsible, the County may, in addition to other remedies provided in the Agreement, debar the Lessee from bidding or proposing on, or being awarded, and/or performing work on County agreements for a specified period of time, which generally will not exceed five years but may exceed five years or be permanent if warranted by the circumstances, and terminate any or all existing agreements the Lessee may have with the County.

43.3 Non-responsible Lessee

The County may debar an Lessee if the Board of Supervisors finds, in its discretion, that the Lessee has done any of the following: (1) violated a term of an agreement with the County or a nonprofit corporation created by the County, (2) committed an act or omission which negatively reflects on the Lessee's quality, fitness or capacity to perform an agreement with the County, any other public entity, or

a nonprofit corporation created by the County, or engaged in a pattern or practice which negatively reflects on same, (3) committed an act or offense which indicates a lack of business integrity or business honesty, or (4) made or submitted a false claim against the County or any other public entity.

43.4 Contractor Hearing Board

1. If there is evidence that the Lessee may be subject to debarment, the Department will notify the Lessee in writing of the evidence which is the basis for the proposed debarment and will advise the Lessee of the scheduled date for a debarment hearing before the Contractor Hearing Board.
2. The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. The Lessee and/or the Lessee's representative shall be given an opportunity to submit evidence at that hearing. After the hearing, the Contractor Hearing Board shall prepare a tentative proposed decision, which shall contain a recommendation regarding whether the Lessee should be debarred, and, if so, the appropriate length of time of the debarment. The Lessee and the Department shall be provided an opportunity to object to the tentative proposed decision prior to its presentation to the Board of Supervisors.
3. After consideration of any objections, or if no objections are submitted, a record of the hearing, the proposed decision, and any other recommendation of the Contractor Hearing Board

shall be presented to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.

4. If a Lessee has been debarred for a period longer than five (5) years, that Lessee may after the debarment has been in effect for at least five (5) years, submit a written request for review of the debarment determination to reduce the period of debarment or terminate the debarment. The County may, in its discretion, reduce the period of debarment or terminate the debarment if it finds that the Lessee has adequately demonstrated one or more of the following: (1) elimination of the grounds for which the debarment was imposed; (2) a bona fide change in ownership or management; (3) material evidence discovered after debarment was imposed; or (4) any other reason that is in the best interests of the County.
5. The Contractor Hearing Board will consider a request for review of a debarment determination only where (1) the Lessee has been debarred for a period longer than five (5) years; (2) the debarment has been in effect for at least five (5) years; and (3) the request is in writing, states one or more of the grounds for reduction of the debarment period or termination of the debarment, and includes supporting documentation. Upon receiving an appropriate request, the Contractor Hearing Board will provide notice of the hearing on

the request. At the hearing, the Contractor Hearing Board shall conduct a hearing where evidence on the proposed reduction of debarment period or termination of debarment is presented. This hearing shall be conducted and the request for review decided by the Contractor Hearing Board pursuant to the same procedures as for a debarment hearing.

6. The Contractor Hearing Board's proposed decision shall contain a recommendation on the request to reduce the period of debarment or terminate the debarment. The Contractor Hearing Board shall present its proposed decision and recommendation to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.

43.5 Subcontractors of Lessee

These terms shall also apply to Subcontractors of County Lessees.

14. COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM

14.1 A new Section 44, entitled Lessee's Warranty to County's Child Support Compliance Program, is added to the Lease Agreement and shall read as follows:

44. LESSEE'S WARRANTY OF ADHERENCE TO COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM

44.1 Lessee acknowledges that County has established a goal of ensuring that all individuals who benefit financially from County through this Agreement are in compliance with their court-ordered child, family and spousal support obligations in order to mitigate the

economic burden otherwise imposed upon County and its taxpayers.

- 44.2 As required by County's Child Support Compliance Program (County Code Chapter 2.200) and without limiting Lessee's duty under this Agreement to comply with all applicable provisions of law, Lessee warrants that it is now in compliance and shall during the term of this Agreement maintain compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42 USC Section 653a) and California Unemployment Insurance Code Section 1088.5, and shall implement all lawfully served Wage and Earnings Withholding Orders or District Attorney Notices of Wage and Earnings Assignment for child or Spousal Support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5246(b).

14.2 A new Section 45, entitled Termination for Breach of Warranty to Maintain Child Support Compliance Program, is added to the Lease Agreement and shall read as follows:

45. TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN CHILD SUPPORT COMPLIANCE

Failure of Lessee to maintain compliance with the requirements set for in Subsection 44, Lessee's Warranty of Adherence to County's Child Support Compliance Program, shall constitute a default by Lessee under this Agreement. Without limiting the rights and remedies available to County under any other provision of this Agreement, failure to cure such default within 90 days of notice by the Los Angeles County District Attorney shall be grounds upon which the County Board of Supervisors may terminate this Agreement pursuant to Sub-Section 15.3, Cancellation.

15. COUNTY'S QUALITY ASSURANCE PLAN

15.1 A new Section 46, entitled County's Quality Assurance Plan, is added to the Lease Agreement and shall read as follows:

46. COUNTY'S QUALITY ASSURANCE PLAN

46.1 The County or its agent will evaluate Lessee's performance under this Agreement on not less than an annual basis. Such evaluation will include assessing Lessee's compliance with all Agreement terms and performance standards. Lessee deficiencies that County determines are severe or continuing and that may place performance of the Agreement in jeopardy if not corrected, will be reported to the Board of Supervisors. The report will include improvement/corrective action measures taken by the County and Lessee. If improvement does not occur consistent with the corrective action measures, County may terminate this Agreement or impose other penalties as specified in this Agreement.

16. NOTICE TO EMPLOYEES REGARDING FEDERAL EARNED INCOME CREDIT

16.1 A new Section 47, entitled County's Quality Assurance Plan, is added to the Lease Agreement and shall read as follows:

47.1 The Lessee shall notify its employees, and shall require each subcontractor to notify its employees, that they may be eligible for the Federal Income Credit under the federal income tax laws. Such notice shall be provided in accordance with the requirements set forth in Internal Revenue Service Notice No. 1015, Exhibit E.

17. NOTICE TO EMPLOYEES REGARDING THE SAFELY SURRENDERED BABY LAW

17.1 A new Section 48, entitled Notice to Employees Regarding the Safely Surrendered Baby Law, is added to the Lease Agreement and shall read as follows:

48.1 The Lessee shall notify and provide to its employees, and shall require each subcontractor notify and provide to its employees, a fact sheet regarding the Safely Surrendered Baby Law, its implementation in Los Angeles County, and where and how to safely surrender a baby. The fact sheet is set forth in Exhibit F of this Agreement and is also available on the Internet at www.babysafela.org for printing purposes.

18. TERMINATION FOR IMPROPER CONSIDERATION

18.1 A new Section 49, entitled Termination for Improper Consideration, is added to the Lease Agreement and shall read as follows:

49.1 County may, by written notice to Lessee, immediately terminate the right of Lessee to proceed under this Agreement if it is found that consideration, in any form, was offered or given by Lessee, either directly or through an intermediary, to any County officer, employee or agent with the intent of securing the Agreement or securing favorable treatment with respect to the award, amendment or extension of the Agreement or the making of any determinations with respect to the Lessee's performance pursuant to the Agreement. In the event of such termination, County shall be entitled to pursue the same remedies against

Lessee as it could pursue in the event of default by the Lessee.

49.2 Lessee shall immediately report any attempt by a County officer, employee or agent to solicit such improper consideration. The report shall be made either to the County manager charged with the supervision of the employee or to the Auditor-Controller's Fraud Hotline at (800) 544-6861 or to such other number as may be provided to Lessee in writing by County

49.3 Among other items, such improper consideration may take the form of cash, discounts, services, the provision of travel or entertainment, or tangible gifts.

49.4 County may, by written notice to Lessee, immediately terminate the right of Lessee to proceed under this Agreement if it is found that consideration, in any form, was offered or given by Lessee, either directly or through an intermediary, to any County officer, employee or agent with the intent of securing the Agreement or securing favorable treatment with respect to the award, amendment or extension of the Agreement or the making of any determinations with respect to the Lessee's performance pursuant to the Agreement. In the event of such termination, County shall be entitled to pursue the same remedies against Lessee as it could pursue in the event of default by the Lessee.

49.5 Lessee shall immediately report any attempt by a County officer, employee or agent to solicit such improper consideration. The report shall be made either to the County manager charged with the

supervision of the employee or to the Auditor-Controller's Fraud Hotline at (800) 544-6861 or to such other number as may be provided to Lessee in writing by County

49.6 Among other items, such improper consideration may take the form of cash, discounts, services, the provision of travel or entertainment, or tangible gifts.

19. EXHIBITS

19.01 Exhibit I of the Lease Agreement is deleted in its entirety and replaced with the attached Exhibit I.

19.02 The Lease Agreement is amended to include the following additional attached exhibits:

- a. Exhibit J – County's Smoking Ban Ordinance
- b. Exhibit K – Certification of Compliance with County's Defaulted Property Tax Reduction Program.
- c. Exhibit L - County's Defaulted Property Tax Reduction Program Ordinance.
- d. Exhibit M - Certification of Compliance with Artificial Trans Fat Reduction Program

20. PRIORITY OF LEASE AMENDMENTS

In the event of any conflict or inconsistency in the definition or interpretation of this Lease Amendment No. 7, such conflict or inconsistency shall be resolved by giving precedence to Lease Amendment No. 7 and then to its Lease Amendments and the lease in descending numerical order.

21. ENTIRE AGREEMENT

Due to the addition of new lease provisions, the section in the Lease Agreement entitled Entire Agreement is renumbered as Section 50.

22. RATIFICATION

All other terms, conditions, covenants and promises of the Lease Agreement not affected by this Lease Amendment No. 7 shall remain in full force and effect and are hereby reaffirmed.

20. EFFECTIVE DATE

The effective date of this Lease Amendment Number 7 shall be as identified hereinabove.

IN WITNESS WHEREOF, Lessee has executed this Lease Amendment, or caused it to be duly executed, and the County of Los Angeles, by order of its Board of Supervisors, has caused this Lease Amendment to be executed on its behalf by the Director of the Department of Parks and Recreation, or his designee, the month, the day and year first above written.

COUNTY OF LOS ANGELES

By _____
Director or Designee

LESSEE

By *Phil C R*
American Golf Corporation

APPROVED AS TO FORM:

MARY C. WICKHAM

County Counsel

By *Christina A Salseda*
Christina A. Salseda
Principal Deputy County Counsel

ATTACHMENT 2

COUNTY OF LOS ANGELES DEPARTMENT OF PARKS AND RECREATION

LAKEWOOD GOLF COURSE IMPROVEMENTS AND CART BARN REPLACEMENT PROJECT CAPITAL PROJECT NO. 87324

CONTRACTOR CASH FLOW ADVANCE PLAN

The Lakewood Golf Course is a historic, regulation 18-hole golf course established in 1933. The age, condition, and layout of the structures limit the functionality and commercial capabilities of the facility. Capital Improvements on Lakewood Golf Course is critical to providing safe and healthy recreation experience to Los Angeles County residents as well as increasing play and future rent revenue for the Department of Parks and Recreation (Department).

The Lakewood Golf Course is operated, managed, and maintained by American Golf Corporation (AGC) under a lease with the County of Los Angeles. The Department holds a \$245,000 security deposit from AGC for the Lakewood Golf Course, which was a requirement for execution of the lease in 1993. In addition, AGC currently operates nine other County golf courses and has managed various capital improvement projects for the Department, which are funded by capital improvement program (CIP) trust funds. AGC's rent payments to the County as well as its advance repayment history, when necessary, is in good standing.

AGC will solicit a minimum of three bids, enter into a construction contract upon the Department's approval of the selected construction contractor, manage the construction project and make payments to construction contractor for the Departments Lakewood golf Course Improvement and Cart Barn Replacement project. Payments to AGC for project costs will be made from Capital Project No. 87324 in the manner described below under the heading Distribute.

The Project's total budget of \$6,589,000 consists of a base construction cost of \$5,490,000 and a contingency fund of \$1,099,000. In the event the actual costs of the project exceed the Board approved project budget, including the change order fund, the Amendment to the lease authorizes the Department to use the available balance in the Lakewood Golf Course CIP fund in order to complete the proposed Project.

Pursuant to Section 1.1.5 of the County Fiscal Manual (CFM), the plan on how the Department will distribute, monitor and recover the cash advances is described below:

Distribute

The total amount that will be paid to AGC for actual Project costs will not exceed the Board-approved project Budget of \$6,589,000 and the additional funds from Lakewood Golf Course CIP, if necessary.

An initial payment of twenty-five percent of the base construction cost will be issued to AGC upon the Department's approval of plans, specifications and construction contract. This payment is necessary for the start-up cash flow commitments of a large construction project. Thereafter, progress payments ("Advances") will be made based on the percentage of project completion. The final ten percent of the construction cost will be paid to American Golf Corporation upon project completion and acceptance by the Department.

Monitor

Cash advance payments to AGC, as described above, will require the County's periodic review of project status and approval of deliverables, as follows:

Initial Payment – plans, specifications and construction contract

Progress Payments – based on percentage of project completion

Final ten percent – project completion and acceptance by the Department

In addition, prior to issuing the second and succeeding progress payments ("Advances"), the Department will reconcile the Advances with AGC's actual payments to the construction contractor using copies of actual checks issued by AGC to the construction contractor. This will ensure that the Advances made to AGC are only in an amount required to maintain the project schedule. The Department will recover from AGC any excess advances at the end of the construction period.

Recover

If necessary, cash advance payments will be recovered from AGC using the performance bond that AGC is required to provide during the construction period, payable to the County, and in an amount equal to 100 percent of the construction contract. This security measure is required to be in full force and effect during the construction period. In addition, the \$245,000 security deposit currently held by the Department may also be used as a security measure to recover advances, if necessary.

Other CFM Contractor Cash Flow Advance Guidelines – Not considered

The following three steps/requirements to be applied before making advances, which are listed in the CFM, were not considered. In lieu of these steps that were not considered, the Department utilized the following two of the five requirements, which are described above: evaluating the agency's prior contracting and advance payment history with the department and requiring the agency to provide a security for the advance, which is a performance bond.

- Review the agency's independent audit report and single audit (if available) for going concern qualifications and other issues.
- Review the financial status by evaluating the agency's net worth, operating income, available cash, and current assets compared to current liabilities.
- Require the agency to submit a business plan demonstrating how the agency will repay the advances.

In addition, the following guidelines for cash advances to pass-through agencies making payments on behalf of the County will not be required from AGC. In-lieu of these guidelines and as mentioned above under the heading Monitor, the Department will reconcile the advances with AGC's actual payments to the construction contractor on a regular basis.

- Require funds be deposited in a separate, interest-bearing account.
- Review agency bank statement on a monthly/quarterly basis to ensure amounts on hand appear appropriate and are not excessive.
- Recover funds by offsetting advance amounts against routine payments to the agencies, but no later than the end of the contract period.